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USDC SDNY

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March 14, 2016

VIA ECF

The Honorable John G. Koeltl
United States District Court for the
Southern District of New York
Thurgood Marshall U.S. Courthouse
40 Foley Square
New York, NY 10007

*The Court will consider the
proposed motion at the conference
scheduled for 4/5/16 at 2:30 p.m.*

Re: *Anastasio v. TOTAL Gas & Power North America, Inc.*, Case No. 15 Civ. 09689
(JGK)

*so ordered
per 6/1/16
USDC SDNY*

Dear Judge Koeltl:

We write on behalf of all Plaintiffs in response to Defendants' March 11, 2016 letter, which suggested that this Court postpone the pretrial conference currently scheduled for Tuesday, March 15, 2016 due to the progress made by the parties since this conference was scheduled on January 8, 2016 – specifically the filing of two amended complaints and a stipulated scheduling order for a motion to dismiss. Given this progress, we agree that a pretrial conference is not necessary at this point. We do, however, wish to inform the Court that Plaintiffs in this case have agreed to a “private ordering” on leadership in this matter and in accordance with this Court’s Individual Rules, respectfully request a pre-motion conference as a prelude to our filing a joint motion for appointment of Interim Co-Lead Counsel under Rule 23(g) of the Federal Rules of Civil Procedure.

3/14/16

Specifically, plaintiffs have agreed to jointly move this court for a leadership structure with four class representatives and four Interim Co-Lead Counsel (Kirby McInerney LLP (“Kirby McInerney”), Robins Kaplan LLP (“Robins Kaplan”), Cafferty Clobes Meriwether & Sprengel LLP (“CCMS”), and Cohen Milstein Sellers & Toll PLLC (“Cohen Milstein”). The four proposed class representatives include two professional traders, an investment fund, and a public utility district, all of whom are committed to prosecuting this action and fairly representing the class.

The four law firms proposed as Interim Co-Lead Counsel are all highly capable law firms who possess the experience and resources necessary to lead complex antitrust and Commodity Exchange Act class actions like the instant case and have done so repeatedly and capably in many similar actions. Specifically, Kirby McInerney, founded over sixty years ago, has served as lead counsel in numerous landmark cases of similar magnitude and complexity as this action, and is leading some of the most prominent private antitrust and Commodity Exchange Act cases currently being prosecuted, including *In re LIBOR-Based Fin. Instruments Antitrust Litig.*, No. 11-md-2262, No. 11-cv-2613 (S.D.N.Y.) and *In re North Sea Brent Crude Oil Futures Litig.* No. 13-md-02475 (S.D.N.Y.).

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Robins Kaplan is among the nation's premier trial law firms, with more than 220 attorneys in seven major cities and over 75 years of litigation representing corporate, government and individual clients on both sides of the courtroom, including major antitrust and commodity manipulation class actions. For instance, Robins Kaplan, as co-lead counsel, reached a groundbreaking \$7.25 billion antitrust class action settlement—the largest ever for a private antitrust case—with Visa, MasterCard and several major U.S. banks relating to interchange fees and merchant point-of-sale rules. See *In re Payment Card Interchange Fee & Merchant Discount Antitrust Litig.*, 05-md-1720 (E.D.N.Y. 2005), ECF No. 6124.

Cohen Milstein, a firm that now includes over eighty lawyers, has been one of the largest, most successful, and most respected plaintiffs' class action firms in the country for over forty years. Notable recent successes as lead or co-lead counsel include receiving the largest antitrust class action jury verdict in history – the more than \$1.1 billion (after trebling) jury verdict against Dow Chemical in *In re Urethane Antitrust Litigation* upheld by the Tenth Circuit last year and, in this District alone over the past two years, a \$566 million settlement in *In Re Electronic Books Antitrust Litigation* (11-md-02292) and settlements of \$325 million and \$275 million in the *RALI MBS Litigation* (08-cv-8781) and the *Harborview MBS Litigation* (08-cv-5093).

CCMS, founded nearly 25 years ago has served in co-lead, executive committee, and other leadership capacities in several successful commodities and antitrust class actions that have resulted in the recovery of billions of dollars, including: *In re Insurance Brokerage Antitrust Litig.*, MDL No. 1663 (D.N.J.) (as co-lead counsel, CCMS helped recover \$270 million on behalf of classes impacted by defendant's antitrust violations in the insurance market); *Kohen v. Pacific Investment Management Co., LLC*, No. 05 C 4681 (N.D. Ill.) (as class and liaison counsel, CCMS helped recover \$118 million on behalf of class impacted by defendants manipulation of Treasury futures market and underlying cash market); *In re Crude Oil Commodity Futures Litig.*, No. 11-cv-3600 (S.D.N.Y.) (as class counsel, CCMS helped recover a \$16.5 million on behalf of class impacted by defendants' manipulation of NYMEX WTI crude oil futures and underlying spot markets); *In re Sumitomo Copper Litig.*, 96 Civ. 4584 (MP) (S.D.N.Y.) (as class counsel, CCMS helped recover \$134.6 million on behalf of class impacted by defendants' manipulation of global copper market); *In re Tricor Indirect Purchaser Antitrust Litig.*, No. 05-360 (D. Del.) (as co-lead counsel, CCMS helped recover in excess of \$65.7 million on behalf of class impacted by defendant's unlawful monopolization of cholesterol medication).

These law firms have worked together cooperatively in the prosecution of this case on behalf of the class, having devoted significant resources to identifying, investigating and prosecuting the claims in this litigation by putting forward a Second Amended Complaint which contains substantial and detailed allegations as well as extensive expert analysis. No other law firms have filed a complaint since this action was begun on December 10, 2015.

Movants believe that they are fully qualified to lead this litigation under the standards set out in Rule 23(g)(1) and respectfully request permission from this Court to make a motion to do so or, in the alternative, for the Court to schedule a pre-motion conference with respect to the proposed motion.

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Respectfully submitted,

/s/ David E. Kovel

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cc. Counsel of record by ECF